

COMMISSIONERS APPROVAL

ROKOSCH *JGR*

GRANDSTAFF *CG*

THOMPSON *at*

CHILCOTT *Y*

DRISCOLL *vd*

PLETTENBERG (Clerk & Recorder)

Date.....November 8, 2007

Members Present.....Commissioner Jim Rokosch,  
Commissioner Carlotta Grandstaff, Commissioner Alan Thompson, and Commissioner  
Kathleen Driscoll

Minutes: Beth Perkins

Commissioner Thompson attended Board of Directors meeting for Human Resource  
Council in Missoula throughout the day.

The Board met for a public meeting on Charlos Townsite Block 22 Lot 9 AP Minor  
Subdivision. Present were Planner Randy Fifrick and PCI Engineer John Kellogg and  
PCI Staff Chris Taggart.

Commissioner Rokosch called the meeting to order and requested the disclosure of any  
conflicts of interest, hearing none. He then requested the Planning Staff Report.

Randy presented the staff report as follows:

**CHARLOS TOWNSITE, BLOCK 22, LOT 9, AP (GRIGSBY FAMILY  
REVOCABLE TRUST)  
FOUR-LOT MINOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Randy Fifrick

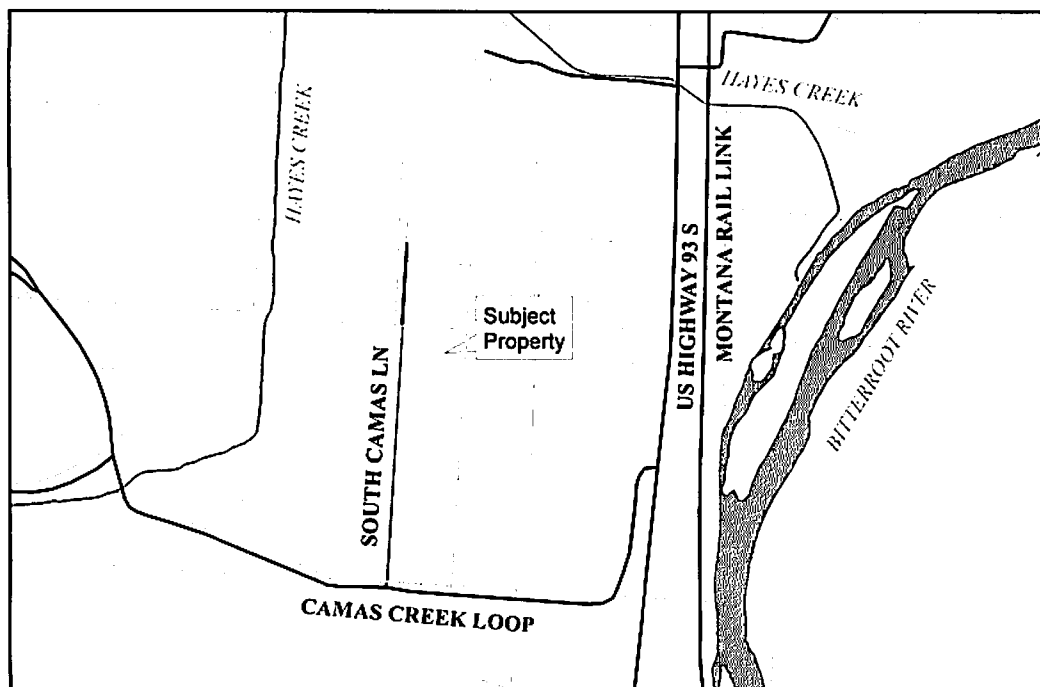
**REVIEWED/  
APPROVED BY:** Renee Lemon

**PUBLIC MEETINGS:** BCC Public Meeting: 9:00 a.m.  
November 8, 2007  
Deadline for BCC action (35 working days): November 20, 2007

**SUBDIVIDER:** Grigsby Family Revocable Trust  
1852 South Camas Lane  
Hamilton, MT 59840

**REPRESENTATIVE:** Professional Consultants, Inc.  
1713 N. 1<sup>st</sup> Street  
Hamilton, MT 59840

**LOCATION OF REQUEST:** The property is located south of Hamilton off Camas Creek Loop. (See Map 1)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

A portion of the SE  $\frac{1}{4}$  of Section 3, T4N, R21W,  
P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined complete  
on September 28, 2007. Agencies were notified of the

subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-7 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

**LEGAL NOTIFICATION:** Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated October 15, 2007. One public comment has been received to date. (Exhibit B).

**DEVELOPMENT  
PATTERN:**

Subject property:	Low Density Residential
North:	Low Density Residential
South:	Low Density Residential
East:	Low Density Commercial
West:	Low Density Residential

**INTRODUCTION**

The Charlos Townsite, Block 22, Lot 9, AP minor subdivision is a four-lot subdivision of 10.01 acres located south of Hamilton. The proposed development is located in an area of mixed residential and commercial uses. All lots are proposed for residential uses. The area is currently developed at a low to medium density with lot sizes consistent with the proposal.

*Staff recommends conditional approval of the subdivision proposal.*

**SUBDIVISION REPORT**

**COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

**A. Provides easements for the location and installation of any planned utilities.**

**Findings of Fact**

1. Existing utility easements are located along South Camas Lane.  
(Application)
2. *Existing and proposed utility easements are required to be shown on the final plat. (Requirement 14)*

**Conclusion of Law**

The proposed subdivision application provides for utility easements.

**B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

**Findings of Fact**

1. The subject property is accessed from US Highway 93 by Camas Creek Loop and South Camas Lane. (Application)
2. Camas Creek Loop is a County-maintained road. (Exhibit A, RCSR)
3. South Camas Lane is a privately-maintained road. A 60-foot wide public access and utility easement agreement has been filed for South Camas Lane. The easement is centered on the western property boundary of the subdivision. (Application and Document # 590980)
4. The preliminary plat labels a 10-foot strip of the easement granted in Document #590980 along the eastern boundary of Charlos Townsite, Block 22, Lot 1 as "Proposed 10' Strip of Roadway and Utility Easement to be Vacated." Through conversations with Professional Consultants, Inc., staff understands that the owner of Lot 1, Jim Darr, would like that 10 feet of easement vacated. The applicant appears to be proposing to contribute an additional 10 feet of easement along the western boundary of the proposed Lots 9A through 9D, but this is not clear within the application. (Exhibit A-6)
5. The applicant is proposing to improve South Camas Lane to meet County standards. The Ravalli County Road and Bridge Department has issued preliminary approval of the road plans. (Application)
6. *To ensure legal and physical access to the subdivision via Camas Creek Loop and South Camas Lane, the following requirements shall be met:*
  - *The applicant is required to pay the pro rata share of the cost to improve the portion of Camas Creek Loop leading to the subdivision prior to final plat approval. (Requirement 33)*
  - *Prior to final plat approval, the subdivider shall submit a copy of the recorded 60-foot wide public road and utility easement for the entire length of South Camas Lane leading to the subdivision (Document #590980 or an updated easement document) (Requirement 34)*
  - *The easement for South Camas Lane shall be labeled as a 60-foot wide public road and utility easement on the final plat. (Requirement 14)*
  - *Final approval from the Ravalli County Road and Bridge Department that the South Camas Lane was constructed to meet County standards. This packet shall include final road plans and grading and storm water drainage plan, a road certification for South Camas Lane, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirement 25)*

**Conclusion of Law**

With the requirements of final plat approval, legal and physical access will be provided on Camas Creek Loop and South Camas Lane.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

**Finding of Fact**

The applicant is required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Requirement 32):

- The portion of South Camas Lane leading to the subdivision shall meet County standards
- A stop sign shall be installed at the intersection of South Camas Lane and Camas Creek Loop
- A road name sign shall be installed for South Camas Lane

**Conclusion of Law**

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

**Findings of Fact**

1. The property has water rights through the Charlos Heights Irrigation District. Currently the northern portion of the property (Lots 9A and 9B) is being irrigated by a privately-installed irrigation pipe. The southern portion of the property (Lots 9C and 9D) has not been irrigated in the past because of the lack in slope. The applicant had a phone conversation with Leonard Lindquist of Charlos Heights Irrigation District on October 24, 2006. Mr. Lindquist stated that all existing irrigation pipelines serving this subdivision are private. The Charlos Heights Irrigation District holds the water rights and property owners pay for the irrigation water via an annual assessment. (Application)
2. The applicant submitted a preliminary irrigation plan that proposes to provide Lots 9A and 9B with irrigation water. (Application)
3. Per a phone conversation on September 25, 2007, with Leonard Lindquist of Charlos Heights Irrigation District, Leonard stated he had no objection to the proposed irrigation plan. (Exhibit A-4)
4. *To ensure that the provisions in 76-3-504(1)(j), MCA, the applicant shall submit a master irrigation plan with the final plat application that is signed and notarized. In addition to the required provisions in Section 3-1-5(a)(xxxv), the applicant shall also provide a detailed description of the existing water rights and contact information for the Charlos Heights Irrigation District. (Requirement 28)*

#### Conclusion of Law

With the requirements of final plat approval, the provisions in 76-3-504(1)(j), MCA, will be met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

#### Findings of Fact

1. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited in 76-3-504(1)(k) MCA.
2. The existing irrigation pipe along the western boundary of Lots 9A and 9B terminates on Lot 9B. The applicant is proposing a 10-foot wide irrigation easement centered on the irrigation pipe. (Application)
3. *To ensure that the appropriate irrigation easements are in place and future owners are aware they cannot plant or build within the easements, MCA, the following requirement and condition shall be met prior to final plat approval:*
  - *The 10-foot wide irrigation easement is required to be shown on the final plat, as shown on the preliminary plat. (Requirement 15)*
  - *A notification of this restriction shall be included in the notifications document. (Condition 1)*

#### Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite has been met.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

#### Finding of Fact

Chapter 6 of the RCSR allows for either a land donation/dedication or cash-in-lieu of parkland donation/dedication for minor subdivisions beginning October 1, 2007, as amended in MCA 76-3-621. This proposal was deemed sufficient prior to that date. There is no parkland requirement associated with this proposal.

#### Conclusion of Law

This requirement is not applicable.

### **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

**A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR.
2. The road design has been approved by the Ravalli County Road and Bridge Department and meets the applicable standards in the RCSR.
3. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

**B. Applicable zoning regulations.**

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County.

Conclusions of Law

This proposal appears to comply with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

Finding of Fact

There are no existing covenants on the property.

Conclusion of Law

There are no covenants that apply to this property.

**D. Other applicable regulations.**

Findings of Fact

1. Following are regulations that may apply to this subdivision:
  - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)

- Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
- 2. The applicants were made aware of the applicable regulations at the updated pre-application conference held on April 5, 2006.

#### Conclusion of Law

The application appears to meet all of the applicable regulations.

#### **E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

##### **CRITERION 1: EFFECTS ON AGRICULTURE**

##### **Findings of Fact:**

1. The proposed minor subdivision on 10.01 acres will result in 4 lots that range in size from 2.49 acres to 2.51 acres. The property is located approximately 8.0 miles south of the city of Hamilton off U.S. Highway 93 and Camas Creek Loop. (Application)
2. Parcels adjacent to the south of the subject property are classified for tax purposes as agricultural rural and farmstead rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. The property is not currently being used for agricultural purposes, although it has been used for hay production in the past. (Application)
4. There are no soils on the property that are listed as Prime Farmland Soils. There is Farmland of Statewide Importance that covers about 40% of Lot 9B. (U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
5. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated ox-eyed daisy and tall buttercup were scattered on the property. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds. (Application)
6. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
  - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*



- *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Requirement 23)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

**Conclusions of Law:**

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

**Findings of Fact**

1. The property has water rights (1" per acre for approximately 10 acres) through the Charlos Heights Irrigation District. Currently the northern portion of the property (Lots 9A and 9B) is being irrigated by a privately-installed irrigation pipe. The southern portion of the property (Lots 9C and 9D) has not been irrigated in the past because of the lack in slope. The applicant had a phone conversation with Leonard Lindquist of Charlos Heights Irrigation District on October 24, 2006. Mr. Lindquist stated that all existing irrigation pipelines serving this subdivision are private. The Charlos Heights Irrigation District holds the water rights and property owners pay for the irrigation water via an annual tax assessment. (Application)
2. The applicant is proposing to divide the water rights between Lots 9A and 9B. Lots 9C and 9D will not receive any rights due to the difficulty in physically providing the lots with water. The applicant has submitted a preliminary irrigation plan and is proposing a 10-foot wide irrigation easement centered on the pipe. (Application)
3. Per a phone conversation on September 25, 2007, with Leonard Lindquist of Charlos Heights Irrigation District, Leonard stated he had no objection to the proposed irrigation plan. (Exhibit A-5)
4. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
  - *The notifications document filed with the final plat shall include a statement clarifying that only Lots 9A and 9B have water rights. (Condition 1)*
  - *The notifications document filed with the final plat shall include a notification of the irrigation facilities and easement on Lots 9A and 9B. (Condition 1)*
  - *The applicant shall submit a master irrigation plan with the final plat application. In addition to the required provisions in Section 3-1-5(a)(xxxv), the applicant shall also provide a detailed description of the existing water rights and contact information for the Charlos Heights Irrigation District. (Requirement 28)*
  - *The 10-foot wide irrigation easement shall be shown on the final plat, as proposed on the preliminary plat. (Requirement 15)*

### Conclusion of Law

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agricultural water user facilities will be reduced.

### CRITERION 3: EFFECTS ON LOCAL SERVICES

#### Findings of Fact:

##### Fire District

1. The subdivision is located within the Hamilton Rural Fire District. (Application)
2. The Hamilton Rural Fire District has adopted Fire Protection Standards, which address access, posting of addresses, and water supply requirements. The Fire District also recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Exhibit A-3)
3. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
  - *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *The covenants shall include a recommendation from the Hamilton Rural Fire District stating that houses within this subdivision should be built to International Residential Building Code (IRBC) building standards. Further, the Hamilton Rural Fire District requests that any commercial buildings be constructed to meet state building code requirements. (Condition 2)*
  - *Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$250-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
  - *The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 6)*

##### School District

4. With this subdivision, it is estimated that approximately 2 school-aged children will be added to the Darby School District, assuming an average of 0.5 children per household. (Census 2000)

5. The applicant is proposing to contribute \$250 per lot for each lot in the subdivision to the Darby School District prior to final plat approval. (Exhibit A-7)
6. Notification letters were sent to the Darby School District requesting comments on August 15, 2007 and October 15, 2007, but no comments have been received from the School District. (Subdivision File)
7. *To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Darby School District stating that they have received an (amount) per-lot contribution prior to final plat approval. (Condition 7) (Staff Note: Since the applicants and the School District did not agree on an amount, the applicants' proposal is not based on any facts, staff recommends that the BCC negotiate an amount with the applicants and include the appropriate finding(s) supporting the amount in their decision.)*

#### Water and Wastewater Districts

8. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Application)

#### Law Enforcement

9. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)
10. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on August 15, 2007 and October 15, 2007, but no comments have been received from the Sheriff's Office. (Subdivision File)
11. This proposed subdivision is located 9 miles from the Sheriff dispatch. (Application)
12. The applicant is proposing to contribute \$250 per lot for each lot in the subdivision to the Sherriff's Office prior to final plat approval. (Exhibit A-7)
13. *To mitigate impacts on law enforcement, the subdivider shall submit an (amount)per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 8)*

#### Emergency Services

14. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Dept. Marcus Daly was contacted but no comments have been received to date. (Subdivision File)
15. *To mitigate impacts on emergency services, the subdivider shall meet the following conditions and requirement:*
  - *The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
  - *A road name sign shall be installed for South Camas Lane. (Condition 9)*

#### Solid Waste Services

16. Bitterroot Disposal provides solid waste service to this site. (Application)

17. Notification letters were sent to Bitterroot Disposal requesting comments on August 15, 2007 and October 15, 2007, but no comments have been received. (Subdivision File)

#### Utilities

18. The proposed subdivision will be served by Northwestern Energy and Qwest Communications. (Application)
19. Notification letters were sent to both utility companies requesting comments on August 15, 2007 and October 15, 2007, but no comments have been received by either company. (Subdivision File)
20. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Requirement 14)*
  - *The applicant shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Requirement 26)*

#### Roads

21. There are four proposed single family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate a total of 24 additional vehicular trips per day, assuming 8 trips per day per single-family dwelling. (Application)
22. Camas Creek Loop, a County-maintained road, and South Camas Lane, a privately-maintained road, provide access to the subdivision from US Highway 93. (Exhibit A, RCSR)
23. The applicants are proposing to improve South Camas Lane to meet County standards. (Application)
24. There is not an existing road maintenance agreement for South Camas Lane. A preliminary road maintenance agreement was provided in the application. (Application)
25. The applicant owns Lots 5A-1, 6A, and Lot 7A-1. (Ravalli County Cadastral Database)
26. A stop sign is proposed on South Camas Creek at its intersection with Camas Creek Loop. (Plat)
27. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
- *The applicant shall pay the pro rata share of the cost to improve the portion of Camas Creek Loop leading to the subdivision to meet County standards prior to final plat approval. (Requirement 33)*
  - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ (Requirement 22)*
  - *Final approval from the Ravalli County Road and Bridge Department that the South Camas Lane was constructed to meet County standards. This packet shall include final road plans and grading and storm water drainage plan, a road certification for South Camas Lane, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirement 25)*
  - *Prior to final plat approval, the subdivider shall submit a copy of the recorded 60-foot wide public road and utility easement for the entire length*

*of South Camas Lane leading to the subdivision (Document #590980 or an updated easement document) (Requirement 34)*

- A road maintenance agreement shall be signed, notarized, and submitted for South Camas Lane. (Requirement 27)*
- A notification of the road maintenance agreement for South Camas Creek Loop shall be included in the notifications document filed with the final plat. (Condition 1)*
- The Road Maintenance Agreement for the internal subdivision road(s) shall state that other parcels that may have beneficial use of the internal subdivision road(s) shall be allowed to join as members of the agreement without the consent of the current members. (Condition 10)*
- Lots 5A-1, 6A, and 7A-1 of Charlos Townsite, Block 22, Lot 9, which are owned by the applicant, shall be party to the road maintenance agreement. (Condition 11)*
- The easement for South Camas Lane shall be labeled as a 60-foot wide public road and utility easement on the final plat, as recorded in Document #590980 or in an updated easement document recorded and submitted with the final plat. (Requirement 14)*
- To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
- The stop sign shall be installed prior to final plat approval. (Requirement 32)*
- The final plat shall show a no-ingress/egress zone along the Camas Creek Loop frontage of Lot 9D and a notification of the no-ingress/egress zone shall be included in the notifications document. (Requirement 14 and Condition 1)*
- A road approach permit for the change in use of the approach for South Camas Lane from the Ravalli County Road and Bridge Department shall be submitted with the final plat. (Requirement 24)*

#### **Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

##### **Findings of Fact:**

##### **Air Quality**

1. This proposed subdivision would add three new homes to an area of existing low density development between the Town of Darby and the City of Hamilton. The subject parcel is currently predominately surrounded by residential and commercial uses. (2004 Aerial Photograph and Site Visit on 7/10/07)
2. This parcel is relatively flat with slopes less than 2% across the property. (Application)

3. In an email dated January 10, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles, and/or wood-burning stoves. There are no gravel roads accessing the subdivision. (Exhibit A-4)
4. *To mitigate impacts on air quality, a recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)*

#### Ground Water Quality

5. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
6. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Requirement 21)*

#### Surface Water Features

7. There are no streams, rivers, riparian areas or wetlands on or adjacent to the property. The subdivision is located approximately 1/4 of a mile from the Bitterroot River. (Application, Site Visit, GIS data, Exhibit A-1)

#### Light Pollution

8. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
9. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

#### Vegetation

10. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated ox-eyed daisy and tall buttercup were scattered on the property. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds.
11. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board.
12. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Application).
13. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

#### Noise Levels

14. In a letter from FWP, they recommend a covenant to address the following issue: This subdivision is about one-quarter mile from the extensive riparian areas associated with the Bitterroot River and its slough, where waterfowl hunting could be expected to occur, and there is potential for conflict between the noise from hunting and residents of this subdivision. (Exhibit A-1)
15. *To mitigate impacts of the subdivision being in close proximity to noise from hunting along the Bitterroot River, a notification of the potential noise shall be included in the covenants. (Condition 2)*

#### Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

#### **CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

##### Findings of Fact:

1. In a letter received August 29, 2007, FWP stated that this property has a high likelihood of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-1)
2. The property is not located within big-game winter range. (FWP)
3. According to the Montana Natural Heritage Program, the Westslope Cutthroat Trout, Olive-sided Flycatcher, and Canada Lynx were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. The subdivider requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property for all species. (Application)
4. *To mitigate impacts on wildlife, the following conditions shall be met:*
  - *The covenants shall include a living with wildlife section. (Condition 2)*

#### Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

#### **CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

##### Findings of Fact:

##### Traffic Safety

1. Access is proposed off Camas Creek Loop and South Camas Lane from US Highway 93. (Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

##### Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Application)

4. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

#### Water and Wastewater

5. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
6. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Requirement 21)*

#### Natural and Man-Made Hazards

7. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
8. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
9. *To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)*
10. The preliminary plat and soils map indicate that the subdivision may have soils rated as "Very Limited" for road and building construction. To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for Very Limited soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as Very Limited for roads and building construction and descriptions of the soils in question shall be attached to the notifications document as an exhibit. (Plat, Application)
11. *To mitigate impacts on public health & safety, the notifications to future landowners shall include a statement regarding severe soils on the property. (Condition 1)*
12. Lot 9B currently has a temporary 30 foot by 150 foot borrow pit that was created for the construction of South Camas Lane. This open pit presents a danger to the public health and safety of the areas residents, especially small children. (Application)
13. *To mitigate impacts on public health & safety, the temporary borrow pit located on Lot 9B shall be filled in prior to final plat approval. (Condition 12)*

#### Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.



### **PLANNING STAFF RECOMMENDED MOTION**

That the Charlos Townsite, Block 22, Lot 9, AP Minor Subdivision be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

### **PLANNING STAFF RECOMMENDED CONDITIONS**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v)(A), RCSR, Impacts on Agriculture*)

***Notification of Water Rights.*** Lots 9A and 9B within this subdivision have irrigation rights from the Charlos Heights Irrigation District. Lots 9C and 9D within the subdivision do not have irrigation rights. Taking water without a water right for any purpose is illegal. (*Section 3-2-8(b)(v)(B), RCSR, Impacts on Agricultural Water User Facilities*)

***Notification of Irrigation Facilities and Easements.*** Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. The filed subdivision plat shows the irrigation easements on the property. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders and those acting with the approval of the Charlos Heights Irrigation District have the right to use the easements to maintain the ditches. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Impacts on Agricultural Water User Facilities*)

***Limitation of Access onto a Public Road.*** A "no-ingress/egress" restriction exists along the Camas Creek Loop frontage of this subdivision, excepting the approved approach for the internal subdivision road. All lots within this subdivision must access off the internal subdivision road, South Camas Lane. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. (*Section 3-2-8(b)(v)(B), RCSR, Impacts on Local Services and Public Health and Safety*)

**Notification of Road Maintenance Agreement.** The internal subdivision road, South Camas Lane, is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v), RCSR, Impacts on Local Services*)

**Notification of "Very Limited" Soils.** Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. (*Section 3-2-8(b)(v), RCSR, Impacts on Public Health and Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Waiver of Protest to Creation of RSID/SID.** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v), RCSR, Impacts on Local Services*)

**Living with Wildlife.** Homeowners must accept the responsibility of living with wildlife, must accept responsibility for protecting their vegetation from damage, and must confine their pets and properly store garbage, pet food, and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as deer, coyote, fox, raccoon and skunk, as well as occasional black bear and mountain lion, could be expected in this area. Please contact the Montana Fish, Wildlife and Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see the Education portion of FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov). (*Section 3-2-8(b)(v)(A), RCSR, Impacts on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from elk and deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners

must be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, uses properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife. If stored indoors, do not set garbage cans out until the morning of garbage pickup and bring them in no later than that evening.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed in bird feeders** attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).

- g. **Pet food and/or livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals such as bear, skunk or magpie do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer and elk becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- k. Purchasers of lots within this subdivision must recognize that this subdivision is near the Bitterroot River where lawful **waterfowl hunting** and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January.
- l. **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)

**Lighting for New Construction.** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). (Section 3-2-8(b)(v), RCSR, *Impacts on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety*)

**Radon Exposure.** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this

location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. (Section 3-2-8(b)(v), RCSR, Impacts on Public Health & Safety)

**Control of Noxious Weeds.** A noxious weed evaluation form has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v), RCSR, Impacts on Agriculture and Natural Environment)

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Hamilton Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health & Safety)

**Access Requirements for Lots within this Subdivision.** The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information. (Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health & Safety)

**Building Standards.** The Hamilton Rural Fire District recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. Further, the Hamilton Rural Fire District requests that any commercial buildings be constructed to meet state building code requirements. For more information, contact the Hamilton Rural Fire District at PO Box 1994, Hamilton, MT 59840. (Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health & Safety)

**Wood Stoves.** The County recommends that home owners install EPA-certified wood stoves to reduce air pollution. More information is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Credit for the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. (Section 3-2-8(b)(v), RCSR, Impacts on Natural Environment)

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (Section 3-2-8(b)(v), RCSR, Impacts on all six criteria)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health & Safety)*
7. The subdivider shall submit a letter or receipt from the Darby School District stating that they have received an (amount) per-lot contribution prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services)*
8. The subdivider shall submit an (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office and provide the receipt prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health and Safety)*
9. A road name sign shall be installed at the intersection of South Camas Lane and Camas Creek Loop prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Impacts on Local Services and Public Health and Safety)*

10. The Road Maintenance Agreement for the internal subdivision road(s) shall state that other parcels that may have beneficial use of the internal subdivision road(s) shall be allowed to join as members of the agreement without the consent of the current members. (*Section 3-2-8(b)(v), RCSR, Impacts on Local Services*)
11. Lots 5A-1, 6A, and 7A-1 of Charlos Townsite, Block 22, Lot 9, which are owned by the applicant, shall be party to the road maintenance agreement for South Camas Lane. (*Section 3-2-8(b)(v), RCSR, Impacts on Local Services*)
12. The temporary borrow pit located on Lot 9B shall be filled in prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Impacts on Public Health and Safety*)

**FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

13. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied. (*Section 3-4-4(a)*)
14. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The features listed in Section 3-4-4(a) (ii) are required on the Final Plat. Following are specific features related to this subdivision:
  - a) Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat.
  - b) The easement for South Camas Lane shall be labeled as a 60-foot wide public road and utility easement on the final plat, as recorded in Document #590980 or in an updated easement document recorded and submitted with the final plat.
  - c) The 10-foot wide irrigation easement shall be shown on the final plat, as shown on the preliminary plat.
  - d) The final plat shall show a no-ingress/egress zone along the Camas Creek Loop frontage of Lot 9D and a notification of the no-ingress/egress zone shall be included in the notifications document, as referenced above in Condition 9.
  - e) The existing irrigation pipe shall be shown on the final plat, as shown on the preliminary plat.
15. The original copy of the preliminary plat decision shall be submitted with the final plat submittal. (*Section 3-4-4(a)*)
16. Any variance decisions shall be submitted with the final plat submittal. (None have been requested at this time) (*Section 3-4-4(a)*)

17. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal. (Section 3-4-4(a))
18. The final plat review fee shall be submitted with the final plat submittal. (Section 3-4-4(a))
19. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal. (Section 3-4-4(a))
20. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal. (Section 3-4-4(a))
21. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal. (Section 3-4-4(a))
22. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal. (Section 3-4-4(a))
23. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal. (Section 3-4-4(a))
24. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal. (Section 3-4-4(a))
25. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal. (Section 3-4-4(a))
26. Utility availability certification(s) shall be submitted with the final plat submittal. (Section 3-4-4(a))
27. A road maintenance agreement, signed and notarized, shall be submitted with the final plat submittal for Camas Lane. (Section 3-4-4(a))
28. The applicant shall submit a master irrigation plan with the final plat application that is signed and notarized. In addition to the required provisions in Section 3-1-5(a) (xxxv), the applicant shall also provide a detailed description of the existing water rights and contact information for the Charlos Heights Irrigation District. (Section 3-4-4(a))
29. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal. (Section 3-4-4(a))



30. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal. (Section 3-4-4(a))
31. A copy of the letter sent to the Darby School District stating the applicant has made or is not willing to make a voluntary contribution (to be determined) to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal. (Section 3-4-4(a))
32. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.) (Section 3-4-4(a)) The following improvements have been approved through this proposal:
  - The applicant shall improve South Camas Lane to meet County standards (addressed above).
  - A stop sign shall be installed at the intersection of South Camas Lane and Camas Creek Loop.
  - A road name sign shall be installed for South Camas Lane.
33. The applicant shall pay the pro rata share of the cost to improve the portion of Camas Creek Loop leading to the subdivision prior to final plat approval. (Section 5-4-5(d), RCSR)
34. Prior to final plat approval, the subdivider shall submit a copy of the recorded 60-foot wide public road and utility easement for the entire length of South Camas Lane leading to the subdivision (Document #590980 or an updated easement document) (Sections 5-4-5(a) and (e), RCSR)

Commissioner Rokosch opened public comment.

PCI Engineer John Kellogg stated this proposal is immediately behind Rocky Mountain Log Homes. He stated there is residential development both to the east and north of this proposed subdivision. He discussed the access points on Camas Creek Loop and South Camas Lane. John stated there were concerns with the width of the right of way. They are planning a total of a 60 foot width. He explained the irrigation plan is in compliance with the Charlos Heights Irrigation District. John requested the pro rata road share be paid directly to improve Camas Creek Loop for asphalt pavement. There will be a moderate impact on local services but they believe the current county road is capable of handling it.

The voluntary contributions have been stated as \$500 per lot for the Fire District, \$250 per lot for School District and \$250 for the Sheriff's Office. He requested this payment to be made upon final plat approval. He also noted Fish, Wildlife and Parks have made some recommendations. Fences are proposed to be deer friendly, notification of proximity of the river and the impacts on Public Health and Safety. They are in concurrence with the Planning Staff Report.

Mike Henderson stated this appears to be a sensible subdivision. This is an area where industry meets residential. There may be potential of conflict of noise. Charlos Townsite was platted during the turn of the century. He pointed out on the map there are easements that should be removed and cleaned up. His concerns are the electrical easements that remain. Commissioner Rokosch stated these concerns are outside the scope of this subdivision but invited Mike to attend the Darby CPC meeting. The Board discussed the possible noise issue in the area.

Commissioner Rokosch requested any further public comment, hearing none. Public comment was then closed and Board deliberations began.

Commissioner Grandstaff asked why this project isn't being done all at once. John replied there are two different owners and different lots. Commissioner Rokosch asked about the easement change of 10 feet. Randy pointed out on the map where the easement lies with a forthcoming agreement. Commissioner Rokosch stated he is uncomfortable without a completed agreement. John stated the easement relocation is at Mr. Dar's property and there is a Memorandum of Understanding that is almost completed. Mr. Dar agrees to the re-establishment of the road easement. Commissioner Rokosch requested a copy of the provisions. John replied the existing 10 feet is on the east side of the plat. He also noted the arrangement with Mr. Dar is separate from this subdivision. Commissioner Rokosch stated Mr. Dar will have to come forward to the Board. Planner John Lavey stated that would be a Clerk & Recorder issue because it is a private road.

Commissioner Rokosch stated the park land dedication or cash in lieu is subject to minor subdivisions as of October 1<sup>st</sup> this year. John replied in the past, minor subdivisions were not considered a big enough impact for park land dedication or cash in lieu. He stated they would be willing to negotiate with the Board's recommendation. Commissioner Rokosch stated with the growth and development in the county there are impacts that need to be mitigated. The decision of the Board to properly mitigate does have weight on the final decision. Randy replied it would be based on 1/2 acre or \$5,000 to \$10,000 for the cash in lieu. Commissioner Driscoll explained the reasoning for the request.

Commissioner Rokosch requested the review of the six criteria.

#### **CRITERION 1: EFFECTS ON AGRICULTURE**

Commissioner Rokosch stated they have asked and received from developers in the past, contributions to mitigate the impacts on farm land for the Open Lands program. Commissioner Rokosch asked how this land is classified for tax purposes. John replied

lots less than 20 acres are not classified as agricultural. The appraisal office may classify this area as agricultural because of the past hay production. Commissioner Driscoll stated the county is losing a million acres of farmland a year. Even if it is two acres, it is gone forever and that is her concern. Randy stated he thought the property was classified as 'residential rural'.

Todd Townsend stated it was not intended for hay production. He agreed and advised the neighbor if they wanted to cut the hay they could keep it. This year there wasn't enough water to grow the hay and now it is all weeds. Another neighbor asked if he fenced it, could he put his horses there to graze?

Commissioner Grandstaff explained Todd may want to hear all of the mitigation before making any offers. Todd and John agreed.

Commissioner Rokosch requested two additional findings of fact stating it is classified as 'residential rural'. A contribution to the Open Lands program in the amount of \$1,000 for lot 9D; which could be made payable as \$500 upon first conveyance and \$500 at final plat approval.

**All Commissioners voted sufficiently mitigated.**

#### **CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

Commissioner Rokosch noted the water rights of 1 inch per acre for 10 acres. He also noted the water is being delivered to two of the lots and the other two lots will only have house water. Commissioner Rokosch asked if Rocky Mountain Log Homes dug a trench to deal with the water issue. John replied that is correct and the water table is high in this area. Todd stated he removed the gravel from the burrow area in order to use it as a base for the road. Therefore the burrow was dug for gravel not drainage. He also noted the water rights were removed from Lots 9C & 9D because the lots already had ample water. The water going to Lots C & D passes through Lots A & B. Commissioner Rokosch asked if the storm water plan has been submitted to DEQ. Duncan Jakes replied they have been in compliance with Mr. Dar's requests. He believes the ditches will mitigate Mr. Dar's complaints regarding his land. Commissioner Driscoll stated our area is in a drought. Her concern is the wells will be drawing down the water table.

**Commissioners Rokosch and Grandstaff voted sufficiently mitigated. Commissioner Driscoll voted non-sufficient due to the drought status.**

#### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

Commissioner Rokosch stated there is an offer of \$500 per lot to the Fire District. The Board concurred with the contribution. Commissioner Rokosch stated there is an offer of \$250 per lot to the School District. He explained based on the figures submitted by Superintendent Ernie Jean, the cost of educating one pupil in Darby is \$9,008. He also explained they subtract the tax levy capital of \$3,204 leaving a balance of \$5,804 per pupil. He does not believe \$250 per lot would mitigate this. Commissioner Grandstaff

stated there is a one year lag time between a student enrollment and the collection of taxes. Discussion continued in regard to the school census and families that have a large number of children that have a huge impact on the schools.

Commissioner Rokosch stated the developer has requested this to be payable upon final plat approval. He noted the Commissioners have been allowing half of the amount to be paid upon first conveyance and the remaining half upon final plat approval. Commissioner Grandstaff suggested this could be another area of mitigation.

Commissioner Rokosch explained the reason why they have allowed this option of payment, i.e., some people move here and rent while waiting for the house to be built; therefore their children are already in the schools making an impact.

Commissioner Rokosch stated they would like to expand their findings beyond the Sheriff's Office which would include the impacts to the 9-1-1 Dispatch Center and the Office of Emergency Management. He stated there are several aspects of growth affecting these impacts. Commissioner Rokosch stated the standard past mitigation has been \$500 per lot. Board discussion followed regarding distribution of the collected voluntary developer contributions. Commissioner Rokosch stated the county has not really captured the broader impacts.

Commissioner Rokosch asked about the wells and septic systems. Duncan stated they will be using raised mound systems. Todd replied the cost is around \$10,000 per system with him hauling the sand.

Commissioner Rokosch discussed the pro rata share for the road system which is \$19,485 for these four lots. Todd replied he has spoken with two different paving companies and they have given him a price at \$1.50 per foot for paving.

Randy replied the cost of the pro rata is actually around \$15,000. John Kellogg stated their request is to have Todd pave the road bringing it up to county standards in lieu of the pro rata requirement. Planner John Lavey replied is he not sure they can do that and stay within the regulations. Commissioner Rokosch asked if they have their approach permit. John Kellogg replied they did. Discussion followed regarding the road. Planner Renee Lemon stated this request would require a variance in order to approve private road improvement. Todd asked if they could do a variance after the initial approval. Renee replied he could.

Commissioner Rokosch stated he had distributed some documentation showing the model of fiscal impacts on county services. He noted this is preliminary data, not a fully developed model. He also stated the impact is \$211.90 per household. Board discussion followed regarding the basis of the fiscal impact amounts.

Commissioner Rokosch requested any further discussion on criteria three, hearing none.

John Kellogg stated they have decided to offer \$250 per each new lot to the School District upon first conveyance and an additional \$250 upon final plat approval based on these CPI figures. John also noted they are requesting the same for the public health and safety issues and they would like to keep the Fire District contribution at \$500 per new lot with no offer of park land dedication, or cash in lieu, and no offer of impacts to county services.

**Commissioners Grandstaff and Driscoll voted sufficiently mitigated. Commissioner Rokosch voted not-sufficiently mitigated due to the school contribution.**

**CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT**

Commissioner Grandstaff requested the language of wood stoves show they be a secondary heat source not a primary heat source. Commissioner Rokosch explained that the county needs to be in compliance with EPA standards and they are now asking the covenants read that wood heat not be a primary source and to met the efficiency rating requirements of 75%.

Commissioner Rokosch requested attachment number 4 be referenced into the findings.

Commissioner Grandstaff requested the wood stove uses for a secondary heat source be added to the conditions subject to approval.

**All Commissioners voted sufficiently mitigated.**

**CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT**

Commissioner Rokosch stated they did receive a waiver on sensitive species.

**All Commissioners voted sufficiently mitigated.**

**CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY**

Commissioner Driscoll stated her concern is the need to give landowners the notice of industrial noise in the area. Randy stated it has been included. Commissioner Rokosch asked if fencing is considered. He stated his concern is small children getting into the Rocky Mountain Log Homes business. Todd replied fences have been destroyed in the past by logs, so in the past he pushes the top soil up to create a barrier between Rocky Mountain Log Homes and the property. Commissioner Rokosch also requested the notification of the residents to include the operation of heavy equipment, industrial noise, and dust as concerns for safety.

**All Commissioners voted sufficiently mitigated.**

Commissioner Rokosch requested a brief recess for Todd to consider the contributions requested.

Commissioner Rokosch reconvened the meeting at 11:35 p.m.

John Kellogg stated they have discussed the contributions and have decided to offer \$250 per new lot to the School District upon first conveyance and an additional \$250 upon final plat approval based on CPI figures. The developer is requesting the same for the public health and safety. The developer would like to keep the Fire District contribution \$500 per new lot. For the park land dedication, since they did meet the deadline prior to the new regulation, they would decline an offer of park land dedication or cash in lieu. The developer would like to make a contribution to the Open Lands program of \$1,000 for Lot 9D with \$500 payable upon first conveyance and \$500 at final plat approval adjusted according to the Consumer Price Index (CPI).

Commissioner Rokosch made a request to review and vote on the six criteria.

**Commissioner Grandstaff made a motion to approve Charlos Townsite Block 22 Lot 9 AP Minor Subdivision based on the findings of fact and additional findings of fact and conclusions of law in the Planning Staff Report, and subject to the conditions in the Planning Staff Report and the contributions made today. Commissioner Driscoll seconded the motion, all voted 'aye'.**

In other business the Board met to appoint Board applicants for the Planning Board, RCEDA, Fair Commission and Board of Health.

Commissioner Rokosch opened the discussion for the Planning Board openings.

**Commissioner Grandstaff made a motion to appoint Jim Dawson to the Planning Board for the Lone Rock District vacancy. Commissioner Driscoll seconded the motion, all voted 'aye'.**

**Commissioner Grandstaff made a motion to appoint John Carbin to the Planning Board for the Stevensville District vacancy. Commissioner Driscoll seconded the motion, all voted 'aye'.**

It was decided to extend the Darby opening another 30 days.

Commissioner Rokosch opened the discussion for RCEDA opening.

**Commissioner Grandstaff made a motion to appoint Patty Furniss to the RCEDA. Commissioner Driscoll seconded the motion, all voted 'aye'.**

Commissioner Rokosch opened the discussion for the Board of Health opening. The Board discussed amending the Board of Health to include an ex-officio member.

**Commissioner Grandstaff made a motion to appoint Theresa Blazicevich to the Board of Health. Commissioner Driscoll seconded the motion, all voted 'aye'.**

Commissioner Rokosch opened the discussion for the Fair Commission.

**Commissioner Grandstaff made a motion to appoint Kathy Good to the Fair Commission. Commissioner Rokosch seconded the motion. After further discussion, Commissioner Grandstaff withdrew her motion and made a motion to table this decision until further notice. Commissioner Driscoll withdrew her second and seconded this motion. All voted 'aye'.**

The Board met for a Request for Commission Action to accept cash in lieu of park land for Sapphire Meadows Major Subdivision. Planner John Lavey was present.

Commissioner Rokosch read the request for commission action and after discussion, **Commissioner Grandstaff made a motion to accept \$19,997.35 for cash in lieu of park land dedication for Sapphire Meadows Major Subdivision. Commissioner Driscoll seconded the motion, all voted 'aye'.**